IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)
Kristopher BUCHANAN et al.	) Group Art Unit: 1797
Application No.: 10/539,562	) Examiner: Bowers, N.
Filed: June 17, 2005	) Confirmation No.: 2677
For: SYSTEMS AND METHODS OF SAMPLE PROCESSING AND TEMPERATURE CONTROL	)

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INTERVIEW SUMMARY

Applicants wish to thank Examiner Bowers for the interview of December 21, 2010 with Anthony Tridico. The substance of the interview is explained herein and in the Examiner Interview Materials presented during the interview (12 pages) and attached to this paper.

Remarks begin on page 2 of this paper.

Attachments to this paper include the Examiner Interview Materials presented at the December 21, 2010 interview (12 pages).

REMARKS

In the Final Office Action of August 15, 2010, the Examiner rejected claims 75 and 90-101 under 35 U.S.C. § 103(a) as being unpatentable over Custance et al. (U.S. Patent No. 6,238,910) in view of Reichler (U.S. Patent No. 5,578,270); rejected claims 102-113, 116-118, 120, and 121 under 35 U.S.C. § 103(a) as being unpatentable over Custance in view of Reichler and Ammann et al. (U.S. Patent Pub. No. 2005/0233370); rejected claims 75 and 90-101 under 35 U.S.C. § 103(a) as being unpatentable over Custance in view of Reichler and Kalra et al. (U.S. Patent No. 6,495,106); and rejected claims 102-113, 116-118, 120, and 121 under 35 U.S.C. § 103(a) as being unpatentable over Custance in view of Reichler, Ammann, and Kalra.

In view of the discussion and attached presentation made during the interview of December 21, 2010, the Examiner agreed to withdraw the outstanding §103(a) rejections of pending claims 75, 90-113, 116-118, 120, and 121 for at least the following reasons. The cited references, taken alone or in combination, do not disclose or suggest "a moveable robotic member for dispensing fluid on at least one carrier; wherein the at least one carrier is inserted or removed during the processing protocol without interrupting movement of the robotic member," as recited in independent claims 75, 102, and 118.

Specifically, as illustrated on page 7 of the Examiner Interview Materials, Custance does not disclose or suggest any type of robotic member or robotic motion. Reichler, while disclosing a robotic member, however, discloses an apparatus capable only of batch slide processing operations. *See* pages 5 and 8 of Examiner Interview Materials. Reichler teaches, at col. 17, lines 32-34, that "[p]rior to the start of the assay,

the trays 86 are loaded with the desired number of reaction devices 88 and assay

devices 90;" and, at col. 23, lines 8-12, that "[w]hen the foregoing sequence of

operations has been completed for each of the reaction stations 78-84, the automated

portion of the nucleic acid assay is complete. The trays 86 are now be removed from

the reaction area 66 of the cabinet 22." Thus, Reichler teaches loading all of the to-be-

processed trays, performing automated assay processing steps with a robotic arm, and

then removing all of the processed trays.

Furthermore, as discussed in the interview and illustrated on pages 5 and 8 of

the Examiner Interview Materials, the apparatus of Reichler does not permit

uninterrupted processing as presently claimed. As illustrated in Fig. 3, Reichler

discloses an apparatus in which robotic arm 190 is disposed above the position of the

loaded slide trays 86, which are locked into position by pivotable arms 102. *Reichler*,

col. 6, lines 12-16. In order to access the slide trays 86, pivotable arm 102 must be

raised, as illustrated in Fig. 3. Due to this arrangement, both pivotable arms 102 and

the arms of an operator manually removing the samples must occupy the range of

motion of robotic arms 190, 192. Such interference could be injurious to an operator or

damaging to the apparatus. Thus, Reichler does not disclose or suggest a structure

that permits "at least one carrier [being] inserted or removed during the processing

protocol without interrupting movement of the robotic member."

Similarly, Kalra, as discussed in the interview and illustrated on pages 5 and 6 of

the Examiner Interview Materials, discloses only a batch processing apparatus wherein

the slides are removable from the top of the apparatus. As illustrated in FIG. 1, Kalra

discloses an apparatus in which a movable arm 30 is arranged above an array of slide

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trays 190, which can only be removed from above. Due to this arrangement, it is

impossible for an operator to remove a slide without interfering with the moveable arm

30. Such interference could be injurious to an operator or damaging to the apparatus.

Thus, in order to prevent interference between an operator and the movable arm, Kalra

discloses at col. 9, line 66 to col. 10, line 3, that "moveable arm 30 is shown in its home

position, to which the arm returns when not in use. The home position is desirably

selected to minimize interference with other operations, such as the insertion of

microscope slides." Additionally, Kalra, at col. 17, lines 19-21 discloses "that the

apparatus can process trays of slides in a manner which completes the prescribed

processing on a single tray 190, and then signal the user to remove the tray and replace

it with a fresh tray." Thus, Kalra discloses an apparatus that signals the user to remove

a slide tray 190 and positions the moveable arm 30 in a safe "home position," during

this operation.

Applicants accordingly request the withdrawal of the pending rejections, as

agreed to during the interview, and the timely allowance of the pending claims.

Please grant any additional extensions of time required to enter the attached

reply and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: January 13, 2011   By: /Richard Hanna/
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Attachments: Examiner Interview Materials presented at the December 21, 2010
interview (12 pages)